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Ukraine's Constitution does not define the rights of an opposition

An opposition is the source of alternative approaches to social development. The actions of an opposition improve the Government's decision-making and encourage it to consider the interests of all stakeholders. One of the reasons for the current political crisis was the failure to establish the status of a political opposition. To eliminate the electoral split in the country, it is necessary to strengthen the status of the Verkhovna Rada minority and its opportunities to publicly express positions, to influence the Verkhovna Rada agenda and to participate in policy-making.

The rights of the Verkhovna Rada opposition are not especially clearly defined in Ukraine's

Constitution, although some of them are identified. First among these is the right to access to information. Each deputy, whether in the majority or on the opposition bench, has the right to submit a deputy inquiry and a deputy address to state bodies, institutions and organizations.

In addition, the Constitution establishes guarantees for the adoption of certain Verkhovna Rada decisions. A vote by one-third of the Verkhovna Rada deputies in favor makes it possible to form a VR investigative commission. The support of 150 deputies also suffices to raise the issue of confidence in the Government in the VR agenda.

Establishing Ukraine's opposition

Before the 2002 Verkhovna Rada elections, there was no formal opposition in Ukraine. The Verkhovna Rada elections based on a mixed proportional and majority system offered no opportunity to structure Rada factions along clear-cut ideological or party lines.

From time to time, the opposition would include not only political forces and individual politicians who disagreed with the Government's policies on principle, but also those forces that generally supported the Government's political course but, at a certain point, received no support from it for their own ambitious political or business plans.

The 2004 amendments to the Constitution and the March 2006 Verkhovna Rada elections on a proportional basis laid a new foundation for the work of an opposition. A Government formed by the Verkhovna Rada majority is politically accountable to this majority. The President, elected by popular vote, has a wide

range of powers to carry out his political work.

How the institution of the opposition works around the world

In parliamentary republics, parties or coalitions of parties that form the Government dominate both in the legislature and in the Government. For the effectiveness of its activity to be guaranteed, the opposition needs additional rights. This is why, in parliamentary democracies, the opposition is given additional opportunities to express its political position and to influence the decision-making process.

In Presidential republics, where the Government is formed by the Head of State, the legislature has no means of dismissing the Government and the connection between the legislative and executive branches of power is not close. According to the Constitution, the parliament, acting as a single unit, plays the role of counterweight to the Government. Therefore, the opposition has no special rights in this legislature but is regulated in the general system of guaranteed deputy activities.

A combination of different institutional environments and political traditions leads to the emergence of different models for how an opposition may act.

The Westminster model of parliamentary opposition

This model of opposition is inherent primarily to the UK and to countries that inherited its political system. This model functions in a parliamentary republic with a bipartisan political system, which makes it possible to easily identify the Government and the opposition. The Government controls the parliamentary majority.

In the Westminster model, the opposition has official status, but cannot participate in the decision-making process. That is, the opposition's powers only allow it to criticize

Government decisions, to offer alternative opinions and, at any time, to replace the Government in power.

The advantage of such a model is the clear political responsibility of each political force. No one has the right to take credit for someone else's achievements or to shift responsibility to others for policy failures. The ruling party cannot say that it failed to do something because of the opposition's resistance.

A clear drawback in this model, however, is the removal of one half of the country's political forces from decision-making and the lack of representation of significant interest groups in this process. In addition, if one party is in power for a long time, there is a serious likelihood that the opposition will lose its professional skills. By not being involved in running the country for a long time, it "forgets" how this should be done.

The continental or German–Scandinavian model

This kind of model functions in a parliamentary republic. The Government is formed by setting up a coalition majority in the legislature. More than two political parties are represented in the parliament. The Government controls the parliamentary majority. However, to adopt many important decisions, the agreement of the opposition is needed.

The opposition can participate in decision-making not only by joining the majority, but also through other means. Usually, this means that a qualified majority votes in the legislature for certain pieces of legislation. For example, to adopt a State Budget in the Bundestag, it is necessary to gain the support of two-thirds of MPs.

Positive features of the continental model include a broad representation of political parties in the policy-making process, the consideration of alternatives and, consequently, a high degree of legitimacy and support among voters.

A drawback of this model is lack of clarity around political responsibility. It is impossible to determine who specifically participated in making a particular decision and who was personally responsible for that decision. Under this system, it is also difficult to implement deep systemic reforms because they need to be agreed many times on both the political and the bureaucratic levels.

The parliamentary-presidential model of opposition

The most typical example of the model for the activity of an opposition in a parliamentary-presidential republic is France, where there

is a mixed political system. The parliament forms the Government, while the President, elected by popular vote, has a wide range of powers.

Functions of an opposition are fulfilled either by a parliamentary minority, when the President and the majority represent one political force, or a parliamentary minority and the President, when the President and the majority represent different political forces.

The parliamentary minority in France is even weaker than that in the UK. Not only does the French opposition not have any opportunity to participate in policy-making, but it also has no special status or compensatory powers, as in the UK, such as, the opportunity to establish the agenda during a specified number of parliamentary days. Opportunities for the opposition to work in France are very limited. For this very reason, France frequently witnesses non-parliamentary forms of protest and opposition activities: strikes, rallies, demonstrations, and so on.

This model does have its advantages. In case of a confrontation between the President and Government, policy is formulated through consensus. To adopt decisions, a compromise must be found between the political interests of parties that are represented by the President and the Government. If both branches of government represent one party, it is possible to identify a clear-cut connection between the situation in the country and the activity of a specific political force.

Formulating the status of Ukraine's opposition institutionally

The models described show that there is no single algorithm for the activity of an opposition and no ideal model. Analysis also shows that the existence or the lack of formalized powers of an opposition does not have a direct impact on its role and influence in the society. In any model, the opposition can be both weak and strong. A particular model of the activity of an opposition is rather the answer to the particular political and social conditions that have developed in the relative society.

After the last Presidential election in Ukraine, the country went through important democratic changes. It held free Verkhovna Rada elections. Freedom of speech is now exercised, along with freedom of assembly and freedom of political competition, and there is a strong opposition in the country. Civil society has begun to emerge in Ukraine. However, over the past two years, the country has failed to set up the main democratic institutions that might protect and strengthen the democratic freedoms that have been won.

In modeling the status of a Verkhovna Rada opposition, two strategic objectives need to be formulated:

- **to eliminate the regional and social split in the country.** The 2004 Presidential election and the 2006 Verkhovna Rada elections split Ukraine into two parts. The political system must function in such a manner so as not to deepen this split but, on the contrary, to eliminate it for the sake of the future;
- **to further democratize the political system.** Recognizing an opposition as an important government institution in a democratic country, its rights and obligations should be formulated in law in the same manner, as the rights and obligations of the ruling coalition. When there are unstable coalition Governments and Verkhovna Rada coalitions, this status must reflect the interests of all political forces present in the legislature.

To regulate the work of an opposition, there is no need to adopt a separate law. The rights and obligations of a coalition majority and an opposition can be written into the Verkhovna Rada Rules of Order, while these Rules of Order should be promoted to the status of a law in order to make it impossible for a Rada majority to manipulate them. It is important that such changes take place, keeping in mind the current experience of the activity of an opposition.

What is needed of an opposition

An opposition must be guaranteed the opportunity not only to express alternative opinions, but also to be on an equal footing in the political process. At the same time, the status of political opposition must also make demands on the opposition: that it be disposed to constructive forms of cooperation, not resort to unconstitutional forms of confrontation, and to maintain civil relations with the Government.

The main recommendation for the oppositional parties in Ukraine is to switch from "negative" activity to "positive" activity. To form the Government, an opposition should not only criticize the Government, but also propose its own policy alternatives. Provided there is freedom of speech, these options will be broadcast to voters through the media and political analysts. And voters will be able to make a choice in the next election based on this information. ■

A full version of this article can be downloaded from the ICPS website at: <http://www.icps.com.ua/doc/VChumak-ed11.pdf>. For additional information, contact Viktor Chumak by telephone at (38044) 484-4444 or via e-mail at vchumak@icps.kiev.ua.

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